

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

CHAD MITCHELL BRUTON (11)

§
§
§
§
§

Case No. 4:01cr44
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on January 19, 2011, and February 14, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Robert Jarvis. The Government was represented by Maureen Smith.

On February 14, 2002, Defendant was sentenced by the Honorable Richard A. Schell to seventy-two (72) months' custody followed by five (5) years of supervised release for the offense of Conspiracy to Manufacture, Distribute or Possess with Intent to Manufacture, Distribute or Dispense Methamphetamine. On September 29, 2006, Defendant completed his period of imprisonment and began service of his supervised term.

On June 20, 2011, the U.S. Pretrial Services Officer executed a Petition for Summons for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) the defendant shall not commit another federal, state, or local crime; (2) the defendant shall not illegally possess a controlled substance; (3) the defendant shall refrain from any unlawful use of a controlled substance; and (4) the defendant shall not possess a firearm, destructive device, or any other dangerous weapon as defined in 18 U.S.C. § 3563 § 3563(b)(8). The petition also alleged violations of the following standard condition: the defendant shall refrain from excessive use

of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician.

The petition alleges that Defendant committed the following acts: (1) On April 18, 2011, Defendant was arrested by Grayson County, Texas Sheriff's Department and charged with Possession of Methamphetamine, Tamper Fabricate Physical Evidence with Intent to Impair, and Resisting Arrest. It is alleged that Defendant attempted to flee the arresting officer when he was going to be placed under arrest. Defendant fought with officers and put a glassine bag with a white substance into his mouth. Sheriff Officers has to use a taser to gain Defendant's compliance and place him in handcuffs. A glass bowl pipe with burnt residue and a clear glassine bag with a white substance were found inside Defendant's waist band of his pants. Defendant admitted to possessing methamphetamine on this date. On May 23, 2011, Defendant was released on a \$5,000 personal recognizance bond; and (2) On May 31, 2011, Defendant admitted to using methamphetamine on April 17 and 18, 2011.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations except for allegation five. Allegation five, addressing the firearm violation, was dismissed by the Government. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of five (5) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit. Defendant shall report to the U.S. Marshal's Office in Sherman, Texas, on March 1, 2012, before 2:00 p.m., to begin his sentence.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 15th day of February, 2012.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE